Davis v. *Cress* (1913) 214 Mass. 379, 382, 101 N. E. 1081. But the parts of the agreement proposed to be proved by parol must not be inconsistent with or repugnant to the language of the written instrument. *Studwell* v. *Bush Co.* (1912) 206 N. Y. 416, 100 N. E. 129. Since there was no mention of income in the written agreement, nor was the instrument a natural place to include such stipulation, and in view of the express finding of the intention by the trial court, the decision seems sound. *Cf. Horner* v. *Maxwell, supra*; *Cooper* v. *Payne, supra.*

HABEAS CORPUS—JURISDICTION OF COURTS-MARTIAL—DESERTION BY ONE IMPROPERLY DRAFTED INTO ARMY.—The petitioner, who was inducted into the army over his protests that he was entitled to exemption as a non-declarant alien under the Selective Service Act, deserted, and upon apprehension was held for trial by court-martial. On habeas corpus, *held,* petition denied. *Ex parte Kerekes* (D. C. E. D. Mich. 1921) 274 Fed. 870.

The extraordinary remedy of habeas corpus will not lie when ordinary measures are appropriate. Thus it is not available for mere errors of law. *Ex parte Yarbrough* (1884) 110 U. S. 651, 4 Sup. Ct. 152. Nor for defense on, or examination into, the merits, unless a jurisdictional issue is involved. See *Clarke's Case* (1853) 66 Mass. 320, 321. But it will always lie for lack of jurisdiction over the subject matter or person. *McClaughry* v. *Deming* (1902) 186 U. S. 49, 22 Sup. Ct. 786. A deserter arrested more than two years after the expiration of his enlistment, having thus the defense that the statutory limitation had run, is within the court-martial's jurisdiction since he was never discharged from the army. *In re Cadwallader* (C. C. 1904) 127 Fed. 881; see (1904) 4 COLUMBIA LAW REV. 601. An enlisted minor of sufficient age to be a soldier with his guardian's consent, is *de jure* a soldier. *In re Morrissey* (1890) 137 U. S. 157, 11 Sup. Ct. 57. Therefore he is amenable to military jurisdiction for military offenses, and his parents cannot obtain his release by habeas corpus prior to the expiation of his offense. See *Ex parte Dunakin* (D. C. 1913) 202 Fed. 290, 292. The Selective Service Act conferred exclusive jurisdiction upon draft boards to determine a registrant's liability for service. *United States* v. *Kinkead* (D. C. 1918) 248 Fed. 141. And the board's finding is final when there has been a full and fair hearing. See *United States* v. *Kinkead, supra,* 143; *Angelus* v. *Sullivan* (C. C. A. 1917) 246 Fed. 54, 62. Thus, in the instant case, if there was error, the petitioner was restricted to an appeal from the local board's decision to the district draft board. But the petitioner was under the jurisdiction of the army so long as the ruling stood. The writ was therefore rightly refused.

INSURANCE—VOLUNTARY EXPOSURE TO UNNECESSARY DANGER.—The insured was killed while voluntarily aiding a marshal in pursuit of armed burglars. In an action on the policy which contained a clause against "voluntary exposure to unnecessary danger," *held,* proper to submit to the jury the question whether the insured incurred needless risk. *Sockett* v. *Masonic Protective Ass'n* (Neb. 1921) 183 N. W. 101.

Voluntary exposure to danger consists in the intentional performance of an act which a reasonably prudent man would consider dangerous. *Tuttle* v. *Travellers' Ins. Co.* (1883) 134 Mass. 175. Since the insured's act was dangerous within the above definition, the question whether it was unnecessary within the meaning of the policy is alone important. Insurance policies are liberally construed in favor of the insured. *Humphreys* v. *Nat'l Benefit Ass'n* (1891) 139 Pa. St. 264, 20 Atl. 1047. Exposure to dangers incidental to the habits and life of the insured is not unnecessary. *Manufacturers' Accident Indemnity Co.* v. *Dorgan* (C. C. A. 1893) 58 Fed. 945. Hazardous acts intentionally performed in connection with one's employment are not prima facie unnecessary. *Rustin* v. *Standard Ins. Co.* (1899) 58 Neb.

792, 79 N. W. 712; *Pacific Mut. Life Ins. Co.* v. *Snowden* (C. C. A. 1893) 58 Fed. 342. The voluntary choice of one of two accidentally unavoidable dangers is not an unnecessary exposure. *N. W. Commercial Travellers' Ass'n* v. *London Guarantee & Accident Co.* (1895) 10 Manitoba L. R. 537. Nor have dangers voluntarily incurred in an attempt to save human life been held unnecessary. Thus the beneficiary of an insured, who died attempting to rescue shipwrecked sailors prevailed. *Tucker* v. *Mutual Ben. Life Co.* (1888) 50 Hun 50, 4 N. Y. Supp. 507, *aff'd* (1890) 121 N. Y. 718, 24 N. E. 1102. Similarly, where the insured, a miner, died voluntarily attempting to rescue a fellow employee. *Da Rin* v. *Casualty Co.* (1910) 41 Mont. 175, 108 Pac. 649. In the instant case the deceased was privileged to pursue the escaping criminals. *Kennedy* v. *State* (1886) 107 Ind. 144, 6 N. E. 205. Logic as well as sound public policy justified the court in the instant case in holding that a beneficiary of a citizen who exposes himself to danger for the preservation of society deserves as much protection as the beneficiary of one who sacrifices himself to save a human life. It was, therefore, a proper jury question as to whether the exposure was so reckless as to be needless.

JUDGMENT—RES JUDICATA—INJUNCTION AS A BAR TO A SUBSEQUENT ACTION FOR DAMAGES.—This action was brought to recover damages for obstructing the plaintiff's right of way. The plaintiff had previously secured a decree enjoining the defendant from blocking the way. The defense was *res judicata. Held,* for the plaintiff. Although the plaintiff might have asked damages in the equity proceeding, he did not, and the decree is no bar to this action. *Perdue et al.* v. *Ward et al.* (W. Va. 1921) 106 S. E. 874.

A judgment on an entire cause of action bars all future suits on the same cause, even though new grounds of relief are set forth. *McKnight* v. *Minneapolis St. Ry.* (1914) 127 Minn. 207, 149 N. W. 131. The judgment is conclusive as to all matters tried or which might have been tried. See *Corey* v. *Independent Ice Co.* (1910) 106 Me. 485, 494, 76 Atl. 930; *Corbett* v. *Craven* (1906) 193 Mass. 30, 35, 36, 78 N. E. 748. Thus a judgment for the plaintiff in a trespass action bars a subsequent action by the defendant to establish an easement even though the theory of the defense in the prior trial was a claim of title. *Sumerall* v. *Maninni* (1906) 124 Ky. 67, 98 S. W. 301. A court of equity, having obtained jurisdiction, may grant an injunction, damages, or both. *Messer* v. *Hibernia Sav., etc. Society* (1906) 149 Cal. 122, 84 Pac. 835. Yet by the weight of authority, a plaintiff who fails to claim damages in a petition for an injunction may recover them in a subsequent action, on the theory that the causes of action are separate and distinct. *Louisville Gas* v. *Kentucky Heating Co.* (1909) 132 Ky. 435, 111 S. W. 374; *Piro* v. *Shipley* (1907) 33 Pa. Super. Ct. 278. Other courts have reached a different conclusion. *Naugle* v. *Naugle* (1913) 89 Kan. 622, 132 Pac. 164. *Gilbert* v. *Boak Fish Co.* (1902) 86 Minn. 365, 90 N. W. 767. The rule against splitting a cause of action is largely to prevent the harassment of the defendant by repeated actions, and the same reason applies just as forcibly when the cause of action, although technically distinct, may be joined in one action. See *Naugle* v. *Naugle, supra,* 631-633. Therefore the minority view seems more sensible.

LANDLORD AND TENANT—SURRENDER OF LEASE—RENT.—The tenant surrendered and the landlord accepted the premises before the rent for the term became due. *Held,* one judge dissenting on other grounds, the landlord could not recover any rent for the part of the term prior to the surrender. *Willis* v. *Kranendonk* (Utah 1921) 200 Pac. 1025.

Although the landlord accepts the surrender, he can sue for rent that is already due. *Sperry* v. *Miller* (1857) 16 N. Y. 407. This is so although it is rent payable